Supreme Court, U.S.
FILED

(1)

No. _____

01-1690 JAN 18 2002

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

PROPHETESS CORA HILL – PETITIONER
(Your Name)

vs.

AMERICAN MEDICAL ASSOCIATION – RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

PROPHETESS CORA HILL
(Your Name)

C-108 222 OLD FAYETTEVILLE RD
(Address)

CARRBORO, NC 27510
(City, State, Zip Code)

919-968-8988
(Phone Number)

35 PG

QUESTION(S) PRESENTED

Question 1: Should Magistrate Judge, P. Trevor Sharp had the authority to *vacate* the Chief Judge's Affirmed and Reaffirmed Order of Reference?

Specifications:

On August 15, 2000, Magistrate Judge, P. Trevor Sharp's Recommendations were to Dismiss, with Prejudice, Plaintiff case. This Recommendation was not affirmed.

Question 2: Should Magistrate Judge, P. Trevor Sharp had the authority to *dismantle* Plaintiff's Case?

Specifications:

The Magistrate Judge, P. Trevor Sharp created a two-part Cause of Action for one Docketed Cause of Action in obduracy to directives from the Chief Judge.

Question 3: Should the United States Court of Appeals for the Fourth Circuit had authority to overlook willful tampering?

Specifications:

On July 31, 2001, an Entered Motion for a Judicial Hearing was requested. This was removed for the "True Copy" docketed printout on September 12, 2001.

Question 4: Should the Panel, U.S. Circuit Judges, of the United Court of Appeals for the Fourth Circuit had authority to further *dismantle* Plaintiff Appellant's Case?

Specifications:

The Judgment Order of December 18, 2001, denying Petition for Rehearing (FRAP 40), affirmed only 01-1974. However, the Judgment Order for 01-1024 is shelved.

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of the petition is as follows:

American Hospital Association

U.S. Department of Health and Human Services/OAR

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INDEX TO APPENDICES

Appendix A	Denial of Rehearing - A-1 is placed on last page Appeals Court
Appendix B	Denial of Default Judgment – B-4 District Court
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TABLE OF AUTHORITIES

CASES PAGE NUMBER

STATUTES AND RULES

Civil Rights Act of 1964

18 U.S.C. § 242

28 U.S.C. §1443

Federal Rule of Evidence Article II 201 (e)

Federal Rule of Evidence 38 5(d)

OTHERS

Civil Rights Act of 1964 42 U.S.C. §2000a. (Excluded Medical Discrimination)

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[ ] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is
[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is
[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

[ ] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix __ to the petition and is
[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the _____ court appears at Appendix __ to the petition and is
[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

JURISDICTION

[X] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was October 11, 2001.

[ ] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: December 18, 2001, and a copy of the order denying rehearing appears at Appendix A.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

[ ] For cases from **state courts**:

The date of which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix ___.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

STATEMENT OF JURISDICTION

The Statement of Jurisdiction of the United States District Court for the Middle District of North Carolina was issued on September 28, 2000 as an Affirmed Order. This was reaffirmed on October 31, 2000, by Chief Judge, N. Carlton Tilley, Jr. to Magistrate P. Trevor Sharp.

The Statutory Provisions conferring jurisdiction on this court to review on a *Writ of certiorari* the decisions in question under Rules and Rule 13.1 of the United States Supreme Court.

CONSTITUTIONAL AND STATUTORY PROVISIONS

United States Constitution Article III, Section 3

Amendment XIII (Equal Protection Act 1868)

Amendment XIV

AMENDMENT VII

Others

Brown v. Board of Education

Civil Rights Acts – 1964

STATEMENT OF CASE

"Hope deferred maketh the heart sick..." (Proverb 13:12)

On or about December 21, 2001, Dr. Anthony Fauci, of the National Institutes of Health, confesses on CBS' Eye on America that the mutation associated with HIV/AIDS is overwhelming and has now caused a re-cycling of medications. On February 24, 2000, Plaintiff/s Prophetess Cora Hill; World Deliverance Health Foundation, Inc. and Tree of Life Ministries filed a Civil Rights Violation Complaint against American Medical Association (AMA); American Hospital Association (AHA) and U.S. Department of Health and Human Services/OAR (HHS), the Defendants. This charge is due to deaths from HIV/AIDS and TB against minorities. The Defendants have overwhelmingly "tort" the minority population, specifically; and the public in general, with Consumer's Fraud; Medical Malpractice and Infra-Services with prejudices against minorities with HIV/AIDS and other epidemic diseases. Their actions are with "covert" confusion and captivity that has lead to "overt" destruction without hope. The same medications that are prescribed to the white population destroy the minority population.

An Amended Complaint was filed on March 31, 2000. The Proceedings Hearing were held on July 31, 2000. In attendance were the AHA and HHS. However, the AMA failed to appear. In addition, Magistrate Judge, P. Trevor Sharp, entered the Default on July 31, 2000. As Ordered in the Proceedings on July 31, 2000, Prophetess Hill filed for Default Judgment on August 4, 2000. On August 15, 2000, Magistrate Judge, P. Trevor Sharp recommended motion to dismiss Plaintiff's Amended Complaint with prejudice. On the other hand, a letter from Chief Judge, N. Carlton Tilley, Jr., dated August 22, 2000.

However, on November 20, 2000, Magistrate Judge, P. Trevor Sharp, ordered dismissal of the AHA and HHS by vacating the Chief Judge's Reaffirmed order of October 31, 2000.

A Notice to Appeal was filed on December 18, 2000, with U.S. Court of Appeals, for the Fourth Circuit. An Interlocutory decision by the United States Court of Appeals for the Fourth Circuit was entered on April 2, 2000 for Case 01-1024.

A Set-Aside Entry of Default and Default Judgment for AMA was entered on January 4, 2001.

A Judgment filed contemporaneously, with prejudice was entered on June 12, 2001.

A Notice to Appeal was filed on July 11, 2001 with the U.S. Court of Appeals for the Fourth Circuit for June 12, 2001 dismissal of AMA.

On October 11, 2001, an affirmed decision was entered for cases 01-1024 AND 01-1974 by the U.S. Court of Appeals for the Fourth Circuit.

REASONS FOR GRANTING THE PETITION

As of September 28, 2000 to December 18, 2001, the jurisdiction decision that is agreed to by all has been an awry conflict in violation, by Magistrate Judge, P. Trevor Sharp, to a Chief Judge's directives and, as Prophetess, my constitutional rights.

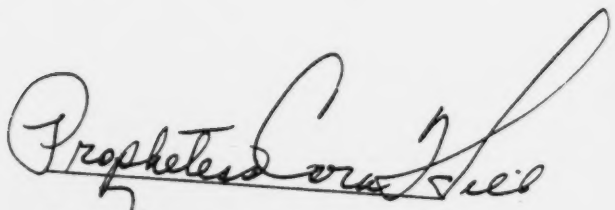
Therefore, I request of the U.S. Supreme Court to exercise its discretion to "Hear" Plaintiff's cause that is denied to uphold the carnage in Medical *coded* Discrimination in violation Civil Rights to Life from HIV/AIDS.

The Experts in the Medical Arena has openly confessed that they have begun to recycle HIV/AIDS medications without "hope." The resourceful medical experts are asking for help!

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: May 6, 2002

APPENDICES

Appeals Court – A

District Court - B

APPENDIX A. Denial of Rehearing

Appeals Court

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

Filed
December 18, 2001

No. 01-1974
CA-00-182-1

CORA HILL, Prophetess

Plaintiff – Appellant

and

WORLD DELIVERANCE HEALTH FOUNDATION INCORPORATED; TREE OF LIFE MINISTRIES

Plaintiffs

v.

AMERICAN MEDICAL ASSOCIATION, (AMA); AMERICAN HOSPITAL ASSOCIATION, (AHA); U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES; Office of AIDS Research

Defendants – Appellees

ORDER

Appellant has filed a petition for rehearing.

The Court denies the petition for rehearing.

For the Court,
/s/ Patricia S. Connor
Clerk

NOTICE OF ISSUANCE OF MANDATE

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

December 26, 2001

MANDATE

TO: Clerk, District Court/Agency

FROM: Wilma Upshur
Deputy Clerk

RE: 01-1974 Hill v. AMA
CA-00-182-1

HEREWITH IS THE MANDATE OF THE COURT, ISSUED THIS DATE, ON THE JUDGMENT ENTERED BY THE COURT ON 10/11/01.

[ ] Order and Certified Copy of Judgment
[x] Opinion and Certified Copy of Judgment
[ ] Order on Costs
[ ] Order dismissing appeal R42(b) or Local Rule R45
[ ] Other: _____
[ ] The record has been retained for use in case number _____

A copy of the judgment is enclosed to counsel/pro se parties.

cc: John Warren Stone Jr.
Robert Joseph Morris
Brenda Straub McClearn
Cora Hill

JUDGMENT

FILED: March 30, 2001

UNITED STATES COURT OF APPEALS

for the

Fourth Circuit

NO. 01-1024
CA-00-182

CORA Hill, Prophetess

Plaintiff – Appellant

and

WORLD DELIVERANCE HEALTH FOUNDATION, INCORPORATED; TREE OF LIFE MINISTRIES

Plaintiffs

v.

AMERICAN MEDICAL ASSOCIATION; AMERICAN HOSPITAL ASSOCIATION; U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, Office of AIDS Research

Defendants – Appellees

Appeal from the United States District Court for the Middle District of North Carolina at Durham

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In accordance with the written opinion of this Court filed this day, the Court dismisses the appeal.

NOTICE OF ISSUANCE OF MANDATE

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

MAY 22, 2001

MANDATE

TO: Clerk, District Court/Agency

FROM: Joy Hargett
Deputy Clerk

RE: 01-1024 Hill v. AMA
CA-00-182

HEREWITH IS THE MANDATE OF THIS COURT, ISSUED THIS DATE, ON THE JUDGMENT ENTERED BY THE COURT ON 3/30/01.

[ ] Order and Certified Copy of Judgment
[x] Opinion and Certified Copy of Judgment
[ ] Order on Costs
[ ] Other: _____
[ ] The record has been retained for use in case number _____

A copy of the judgment is enclosed to counsel/pro se parties.

cc: Cora Hill
Brenda Straub McClearn
Robert Joseph Morris
John Warren Stone Jr.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
LEWIS F. POWELL, JR. UNITED STATES COURTHOUSE ANNEX
1100 EAST MAIN STREET, SUITE 501
RICHMOND, VIRGINIA 23219-3517
PATRICIA S. CONNOR, CLERK TELEPHONE (804)916-2700

December 18, 2001

John Warren Stone Jr., Esq.
OFFICE OF THE U.S. ATTORNEY
P. O. Box 1858
Greensboro, NC 27402

Robert Joseph Morris, Esq.
SMITH, ANDERSON, BLOUNT, DORSETT, MITCHELL & JERNIGAN
P. O. Box 2611
Raleigh, NC 27602

Brenda Straub McClearn, Esq.
SHARPLESS & STAVOLA, PA
P. O. Box 22106
Greensboro, NC 27420

Cora Hill
C-108
222 Old Fayetteville Road
Carrboro, NC 27510

Re: 01-1974 Hill v. AMA
CA-00-182-1

Dear Counsel & Appellant:

Enclosed is a copy of an order filed today in this case.

Yours truly,
PATRICIA S. CONNOR
Clerk

By: /s/ Barbara H. Rowe
Deputy Clerk

Enclosure(s)
cc: Joseph P. Creekmore

JUDGMENT

FILED: October 11, 2001

UNITED STATES COURT OF APPEALS

for the

Fourth Circuit

NO. 01-1974
CA-00-182-1

CORA Hill, Prophetess

Plaintiff – Appellant

and

WORLD DELIVERANCE HEALTH FOUNDATION; INCORPORATED; TREE OF LIFE MINISTRIES

Plaintiffs

v.

AMERICAN MEDICAL ASSOCIATION, (AMA); AMERICAN HOSPITAL ASSOCIATION, (AHA); U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, Office of AIDS Research

Defendants – Appellees

Appeal from the United States District Court for the Middle District of North Carolina at Durham

In accordance with the written opinion of this Court filed this day, the Court affirms the judgment of the District Court.

/s/ Patricia S. Connor
CLERK

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH OF CIRCUIT

No. 01-1974

CORA HILL, Prophetess,

and Plaintiff – Appellant,

WORLD DELIVERANCE HEALTH FOUNDATION, INCORPORATED; TREE OF LIFE MINISTRIES,

Plaintiffs,

versus

AMERICAN MEDICAL ASSOCIATION (AMA); AMERICAN HOSPITAL ASSOCIATION (AHA); U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, OFFICE OF AIDS Research,

Defendants – Appellees.

Appeals from the United States District Court for the Middle District of North Carolina, at Durham. Paul Trevor Sharp, Magistrate Judge. (CA-00-182-1)

Submitted: October 4, 2001 Decided: October 11, 2001

Before NIEMEYER, LUTTIG, and MICHAEL, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Cora Hill, Appellant Pro Se. Brenda Straub McClearn, SHAPLESS & STAVOLA, P.A., Greensboro, North Carolina; Robert Joseph Morris, SMITH, ANDERSON, BLOUNT, DORSETT, MITCHELL & JERNIGAN, Raleigh, North Carolina; John Warren Stone, Jr., Assistant United States Attorney, Greensboro, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Cora Hill appeals the magistrate judge's orders* granting the Defendant's motions to dismiss this action alleging that the Defendant's "torted" the general public by leading it to believe that there was no hope for those afflicted with HIV/AIDS. We have reviewed the record and the magistrate judge's orders and find no reversible error. Accordingly, we affirm on the reasoning of the magistrate judge. Hill v. American Med. Ass'n, No. CA-00-182-1 (M.D.N.C. Nov. 20, 2000 & June 12, 2001). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

*The parties consented to the exercise of jurisdiction by a magistrate judge.

UNITED STATES DISTRICT COURT
Middle District of North Carolina
Post Office Box 2708
Greensboro, North Carolina 27402

Chambers of
N. Carlton Tilley, Jr. August 22, 2000

Dear Counsel and Ms. Hill:

Cora Hill -v- American Medical Association, et al
1:00CV182

The above-entitled case has been randomly selected from the combined dockets of all district judges and administratively assigned to Magistrate Judge P. Trevor Sharp to conduct all pretrial proceedings, including recommendation on dispositive motions. Because of the dramatic increase in the number of criminal cases in recent years, district judges have had to give priority to the significant delay, which can result in cost increases, before it can be tried by a district judge. Congress's enactment of the Civil Justice Reform Act has required the court to give increased attention to addressing costs and delays in resolving civil disputes. The Judicial Conference of the United States has encouraged the designation of magistrate judges to conduct all proceedings in civil cases, both jury and non-jury.

Magistrate Judge Russell A. Eliason and P. Trevor Sharp are experienced officers who for over fifteen years have regularly handled civil cases for discovery through dispositive motions and trial. Trial before a magistrate judge, in addition to an earlier trial date, will also enable the court to give counsel and the parties a special setting. Appeal from a judgment entered by a magistrate judge will be to the Court of Appeals for the Fourth Circuit.

If your client, after consultation with you, consents to the trial jurisdiction of the magistrate judge, please return the enclosed consent form to the Clerk's Office within thirty (30) days. Cases in which consent is not given will nevertheless be first considered by the magistrate judge, who will make rulings or recommendations on

all motions, including dispositive ones. You are required by law to communicate your decision to the Clerk. 28 U.S.C. § 636 (c) (2). Accordingly, the Clerk may contact you if you have not responded within 30 days.

Very truly yours,

N. Carlton Tilley, Jr.
Chief Judge

NCTJR:bb

Enclosure

This the 31st day of October, 2000.

FOR THE COURT

N. Carlton Tilley, Jr.
Chief Judge
United States District Court

October 31st, 2000

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

Filed
October 31, 2000

PROPHETESS CORA HILL, Plaintiff	)	
	)	1:00CV00182
v.	)	
AMERICAN MEDICAL Association, et al., Defendants.	)	

REAFFIRMED ORDER

Of Reference to a United States Magistrate Judge

It appearing to the Court that all parties have consented in writing, pursuant to the United States Magistrate Act of 1979 {Title 28 § 636 (c)}, to the exercise by a United States Magistrate Judge of jurisdiction in this case, and for good cause appearing to the Court.

IT IS ORDERED that the above-entitled case is referred to United States Magistrate Judge P. Trevor Sharp to conduct all proceedings including a jury or non-jury trial, order the entry of final judgment, and conduct all post-judgment proceedings.

The Order of Reference of September 28, 2000 is reaffirmed in light of the fact that two written consents were received after entry of the prior order.

Denial of Default Judgment

U.S. District Court of N.C.

ENTERED ON DOCKET
R. 79(a)

June 12, 2001

BY: KIM

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

PROPHETESS CORA HILL	)	
	)	
Plaintiff,	)	1:00CV00182
	)	
v.	)	
	)	
AMERICAN MEDICAL ASSOCIATION, AMERICAN HOSPITAL ASSOCIATION and U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES	)	
	)	
Defendants	)	

J-U-D-G-M-E-N-T

For the reasons set forth in the Order filed contemporaneously with this Judgment **IT IS HEREBY ORDEED AND ADJUDGED** that this action be, and the same hereby is, dismissed with prejudice.

P. Trevor Sharp, United States Magistrate Judge

June 12, 2001

ENTERED ON DOCKET
R: 79(a)

JUNE 12, 2001

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

BY: KLM

PROPHETESS CORA HILL, Plaintiff, AMERICAN MEDICAL ASSOCIATION, AMERICAN HOSPITAL ASSOCIATION and U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, Defendants,	)	1:00CV00182 FILED JUNE 12, 2001

MEMORANDUM ORDER

SHARP, Magistrate Judge

This matter comes before the Court on the January 26, 2001 motion to dismiss [Pleading no.44] filed by Defendant American Medical Association ("AMA"). Plaintiff Prophetess Cora Hill[1] opposes the motion to dismiss.

[1] Cora Hill is the sole remaining Plaintiff. While the original complaint identified the World Deliverance Health Foundation, Inc. and the Tree of Life Ministries as additional Plaintiffs, Cora Hill, as representative for those entities, gave notice of voluntary Dismissal of those parties in her "Motion to Withdraw," filed April 14, 2000. [Pleading no.17]

In her Amended Complaint [Pleading no.10], Plaintiff Hill alleges that the party Defendants have "tort" the public in general and the minority population specifically into believing there is little or no hope with respect HIV/AIDS. She says that the sale of medications are causing thousands to perish. Ms. Hill alleges that Defendants have caused consumer fraud and medical malpractice against minorities with HIV/AIDS, and that the same medications which have "cured" the white population are destroying minorities.

On review of the Amended Complaint, the Court concludes that the motion to Dismiss filed by Defendant AMA is well taken. The Amended Complaint fails to identify any basis for the exercise of subject matter jurisdiction. The allegation that Defendants have "tort" the public does not raise a federal question, and there is no allegation that could support a finding of diversity jurisdiction. Moreover, Plaintiff lacks standing to sue. She has shown no "invasion of a legally protected interest" that is "concrete and particularized." *Koenick v. Felton*, 190 F.3d 259, 263 (4th Cir. 1999), *cert. Denied*, 528 U.S. 1118 (2000), citing *Lujan v. Defenders*

of Wildlife, 504 U.S. 55,560 (1992). It is well established that an interest shared with the public at large is not sufficient to create standing. *Id.* Citing *Lujan*, 504 U.S. at 573-76. It I a general rule that a litigant may not assert the rights of others, as Plaintiff Hill has attempted here. *See Mackey v. Nationwide Ins. Companies*, 724 F2d 419, 421-22 (4th Cir.1984).

Further, the Amended Complaint is subject to Rule 12(b) (6) dismissal for failure to state a legal claim. Even construing the complaint under the liberal standard afforded to *Pro se* plaintiffs, no cognizable claim arises from Plaintiff's generalized assertion that Defendants have "tort" the public in general and the minority population through the continued sale of HIV/AIDS medications and treatments. The asserted claim does not give adequate notice of any particular legal claim.

Finally, it is further appears that Plaintiff has not gained personal jurisdiction over the Defendant since her affidavit of service [Pleading no.3] shows that she failed to direct her Certified mail, containing the complaint and summons, to an officer, director,

managing agent, or registered agent of Defendant. See Fed. R. Civ. P. 4; N.C.R. CIV.P.4(J)(6).

Accordingly, **IT IS ORDERED** that the motion to dismiss [Pleading no.44] filed by Defendant AMA is **GRANTED**. This action will be dismissed with prejudice by a separate judgment.

P. Trevor Sharp, United States Magistrate Judge

June 12, 2001

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

PROPHETESS CORA HILL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	1:00CV00182
	)	
AMERICAN MEDICAL ASSOCIATION, AMERICAN HOSPITAL ASSOCIATION, and U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,	)	
	)	
Defendants.	)	

O-R-D-E-R

For reasons set forth in the Recommendation filed August 15, 2000,

IT IS HEREBY ORDERED that the motions to dismiss filed by Defendants American Hospital Association and U.S. Department of Health and Human Services [Pleadings no. 5, 14 and 21] be **GRANTED**.

United States Magistrate Judge

November 20, 2000

Entered On Docket
R.79 (a)
Aug. 15, 2000

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
BY: KLM

PROPHETESS CORA HILL, Plaintiff, v. AMERICAN MEDICAL ASSOCIATION, AMERICAN HOSPITAL ASSOCIATION and U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, Defendants.	)	1:00CV00182 FILED: Aug. 15, 2000

RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

This matter came before the Court on July 31, 2000 for a hearing on the motions to dismiss [Pleading nos. 5, 14 and 21] filed by Defendants American Hospital Association ("AHA") and the United States Department of Health and Human Services ("HHS"). Defendant American Medical Association has not responded to the complaint. Plaintiff Prophetess Cora Hill[1] opposes the motion to dismiss.

[1] Cora Hill is the sole remaining plaintiff. While the original complaint identified the World Deliverance Health Foundation, Inc. and the Tree of Life Ministries as additional Plaintiffs, Cora Hill, as representative for these entities, gave notice of voluntary dismissal of the claims of those parties in her "Motion to Withdraw," filed April 14, 2000.[Pleading n. 17}

In her Amended Complaint [Pleasing no. 10], Plaintiff Hill alleges that the party Defendants have "tort" the public in general and the minority population specifically in believing there is little or no hope with respect to HIV/AIDS.

She says that the sale of medications are causing thousands to perish. Hill alleges that Defendant have caused consumer fraud and medical malpractice against minorities with HIV/AIDS, and that the same medications which have 'cured' the white population are destroying minorities.

On review of the pleading, the court concludes that the motions to dismiss filed by Defendants AHA and HHS are well taken. The Amended Complaint fails to identify any basis for the exercise of subject matter jurisdiction. The allegation that Defendants have "tort" the public does not raise a federal question, and there is no allegation that could support a finding of diversity jurisdiction. Moreover, Plaintiff lacks standing to sue. She has shown no "invasion of a legally protected interest" that is "concrete and particularized." *Koenick v. Felt, 190f.3d 259, 263 (4th Cir. 1990), cert. Denied, ___ U.S. ___, 120 S. Ct.938 (2000)* citing *Lujan v. Defenders of wildlife*, 504 U.S. 555,560 (1992). It is well established that an interest shared with the public at large is not sufficient to created standing. *Id.* Citing *Lujan*, 504 U.S. at 573-76. It is a general rule that a ligitant may not assert the rights of others as Plaintiff Hill has attempted here. *See Mackey v. Nationwide Ins. Companies*, 724 F.2d 419, 421-22 (4th Cir. 1984).

Further, the Amended Complaint is subject to Rule 12 (b)(6) dismissal for failure to state a legal claim. Even construing the complaint under the liberal standard afforded to pro se plaintiffs, no cognizable claim arises from Plaintiff's generalized assertion that Defendants have "tort" the public in general and the minority population through the continued sale of HIV/AIDS medications and treatments. The asserted claim does not give adequate notice of any particular legal claim.

Finally, as to the federal Defendant, HHS, Plaintiff has not shown that she has filed an administrative claim, as required by 28 U.S.C. § 2675, and therefore cannot escape the federal defendant's defense of sovereign immunity. *See generally* Honda v. Clark, 386 U.S. 484,501 (1967).

Accordingly, **IT IS RECOMMENDED** that the motions to dismiss filed by Defendants AHA and HHS be granted and that this action be dismissed with prejudice.

P. Trevor Sharp, U.S. Magistrate Judge

August 15, 2000